

EXHIBIT P

EXHIBIT 17

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re:)
)
) No. 2:21-cv-00563-JCC
VALVE ANTITRUST LITIGATION)
)

VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION OF
THOMAS GIARDINO

*** HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY ***

9:04 A.M.

THURSDAY, NOVEMBER 2, 2023
701 FIFTH AVENUE, SUITE 5100
SEATTLE, WASHINGTON

Reported by: Tami Lynn Vondran, CRR, RMR, CCR/CSR
WA CCR #2157; OR CSR #20-0477; CA CSR #14435
Job Number 6276475

1 two weeks, it seems that the majority of requests for
2 them generating Steam keys have been denied. And I was
3 wondering if you or someone else could tell me what
4 exactly the basis is of these denied requests. Most
5 games have not been bundled and are a couple months,
6 sometimes years old. That way I know what products to
7 avoid for the time being, or are we being -- or are we
8 blacklisted?

9 "Hope you can help me out with this, or point
10 me in the right direction of the person that might be
11 able to help me."

12 Did I read all that correctly?

13 A. Yes.

14 Q. All right. So you respond back, "Hey Dennis!
15 The three big things that matter to us are the first
16 three things we put directly into the key request
17 process. I'm not sure if you guys publish any games
18 directly on Steam or have seen this from your
19 dev/publisher partners but it's no big secret so I'll
20 copy-paste an example key request here."

21 Did I read all that correctly?

22 A. Yes.

23 Q. All right. And then you include those three
24 commitments that someone has to check off during the key
25 request process; right?

1 A. I don't have those memorized, but it -- yes,
2 it looks the same to me.

3 Q. Okay. And first one is, "I understand that I
4 need to sell my game on other stores in a similar way to
5 how I am selling my game on Steam. I agree that I am
6 not giving Steam customers a worse deal."

7 That's the first big thing?

8 A. That's how the bullet point reads, yes.

9 Q. All right. And the second bullet point that
10 someone has to check off that they're agreeing to is, "I
11 understand that while it's OK to run a discount on
12 different stores at different times, I agree to give the
13 same offer to Steam customers within a reasonable amount
14 of time."

15 Is that right?

16 A. Yes. That was accurate.

17 Q. Okay. And here, did you provide him an answer
18 about why the majority of requests for Steam keys on
19 Groupees was being -- were being rejected?

20 A. I don't know now, and it doesn't look like I
21 knew at the time whether or not that was true. I don't
22 know if the majority of those requests was being
23 rejected.

24 Q. All right. So then Mr. Peterson, who had been
25 cc'd here, he responds just to you and says, "I want to

1 frame this and hang it on our cabal wall."

2 Those are his words; right?

3 A. Yes.

4 Q. And a cabal there is a small group -- as used
5 by Mr. Peterson, it's a small group at Valve; is that
6 right?

7 A. Yeah. I -- that term predates me at Valve. I
8 think "cabal" historically at Valve was shorthand for a
9 team or a product group. And so that's my
10 interpretation of how he uses it here as well.

11 Q. Okay. And he basically -- and so you and he
12 were part of the same cabal in this timeframe, 2019?

13 A. Yes. Erik and I worked on the same team, and
14 at this time we would have sat near each other in the
15 building as well.

16 Q. So he's basically saying, I want to frame this
17 and hang it near where we sit?

18 A. You'd have to ask him exactly what he meant,
19 but I can just read his words from the email.

20 Q. All right. Well, you responded and you said,
21 "gonna get it tattooed on my back like it's the
22 Declaration of Independence."

23 Those were your words?

24 A. Yes.

25 Q. I assume you never got that tattoo?

1 A. I do not have any tattoos.

2 Q. All right. But here, why did you say that?

3 A. Well, I don't recall this email conversation,
4 and I don't recall my specific state of mind when
5 replying.

6 Q. So you don't have any recollection about why
7 you would say that joke -- about why you joke about
8 getting a tattoo of these three big things on your back?

9 A. As I read the email now, Dennis -- he's not
10 asking about a key request that he made for a game he
11 publishes, and I don't think I could have or it would be
12 appropriate to share information about some other
13 developer or company's key request.

14 But Dennis appears to be asking a good faith
15 question about Steam key guidelines and how Steam keys
16 work.

17 Maybe I could have ignored the email, but I
18 wrote back and tried to explain, hey, you may or may not
19 have already seen this, but, you know, it's not secret,
20 it's not hidden. I'm happy to share with you, here's
21 what developers and publishers see when they request on
22 Steam.

23 So looking back, I would interpret it as a
24 helpful response to his question.

25 Q. The part where you just responded to

1 Mr. Peterson, where you say, "Gonna get it tattooed on
2 my back like it's the Declaration of Independence,"
3 that's a helpful response to the Groupees guy?

4 A. No, no. The rest of the message to Dennis
5 would be the helpful response to him.

6 Q. So I'm talking about your joke to
7 Mr. Peterson.

8 The point here is that this is an important
9 thing that, as part of your job, you say fairly often;
10 right?

11 MR. CASPER: Object to the form of the
12 question.

13 A. This is not a big part of my job, and not a
14 conversation I would have typically. On one hand, it
15 would be extremely unusual for another developer --
16 excuse me, another storefront to ask this question about
17 other companies' Steam key requests. That would be
18 unusual. I don't recall that happening, certainly not
19 with any frequency.

20 But then for most partners who are in the
21 system requesting Steam keys, they would have direct
22 access to this information.

23 And so reexplaining to them, that may have
24 happened from time to time over many years, but it
25 wouldn't be a common thing or a big part of my job.